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*Attorneys for Accredited Surety & Casualty Company, Inc.*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

FOOTHILL INSURANCE COMPANY,

Petitioner,

v.

ACCREDITED SURETY &  
CASUALTY COMPANY, INC.,

Respondent.

Case No.

**NOTICE OF REMOVAL**

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA, HELENA DIVISION**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Respondent Accredited Surety & Casualty Company, Inc. (“Accredited”) hereby removes this action from Montana First Judicial District Court, Lewis and Clark County, Case No. BDV 2022-318, to the United States District Court for the District of Montana, Helena Division. In support of the removal, Accredited respectfully states:

1. On April 13, 2022, Petitioner Foothill Insurance Company (“Foothill”) filed a “Brief Is [sic] Support of Application and Motion to Vacate” (“Brief”) and accompanying Declaration of Andrew Dykens (with exhibits) in Montana First Judicial District Court, Lewis and Clark County. A copy of the Brief and accompanying Declaration of Andrew Dykens with exhibits (collectively, “Vacatur Papers”) is attached hereto as Exhibit A.<sup>1</sup>

2. Accredited received a copy of the Vacatur Papers by certified mail on April 15, 2022.

3. This Notice of Removal is, therefore, timely under 28 U.S.C. § 1446(b) since it has been “filed within thirty days after the receipt by the Defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief....”

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<sup>1</sup> The Exhibits referred to in this Notice of Removal are those attached to the accompanying Declaration of Matthew J. Lasky submitted in support of this removal notice.

4. The Vacatur Papers constitute the initial pleading for purposes of removal under 28 U.S.C. § 1446(b) and their alleged facts support this removal.

5. The Vacatur Papers and exhibits constitute all of the processes, pleadings, and orders filed or served in the state court action.

6. Accredited has not yet answered or appeared in the state court action and its time to answer or oppose the Vacatur Papers has not yet expired.

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because this is a civil action between citizens of different states seeking damages where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

8. Petitioner is a Montana Series Business Unit of Dresden Insurance Company, LLC, a Montana special purpose captive insurance company. (See Exhibit A, Brief, p. 3).

9. Accredited is now, and was at the time this action was commenced, a corporation organized and existing under the laws of the State of Florida, with its principal place of business located at Orlando, Florida. (See Exhibit B, Florida Department of Insurance Records).

10. The amount-in-controversy requirement for diversity jurisdiction is satisfied in this case because it is clear from the face of the Vacatur Papers that the “matter in controversy exceeds the sum or value of \$75,000, exclusive of interest

and costs.” 28 U.S.C. § 1332(a). (See e.g., Exhibit A, Brief, p. 12 (noting that the January 13, 2022 Final Award that Foothill wrongly seeks to vacate here directed Foothill, *inter alia*, to pay Accredited outstanding reinsurance billings totaling \$1,615,627, plus then accruing interest in the amount of \$177,168.45)).

11. The United States District Court for the District of Montana, Helena Division maintains jurisdiction over the place where the state court action is pending. 28 U.S.C. §§ 112(c), 1441(a).

12. By reason of the foregoing, this Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1332(a) and the action is removable to this Court pursuant to 28 U.S.C. § 1441(a).

13. Written notice of the filing of this notice of removal will be given to Petitioner and a true copy of this notice of removal will be filed with the Clerk of the Montana First Judicial District Court, Lewis and Clark County as provided by law.

WHEREFORE, Accredited prays that the above-captioned action be removed, with the express reservation of all procedural and substantive defenses, from the Montana First Judicial District Court, Lewis and Clark County, to the United States District Court for the District of Montana, Helena Division.

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DATED this 29<sup>th</sup> day of April, 2022.

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

By: /s/ Daniel J. Auerbach

Daniel J. Auerbach

*Attorneys for Accredited Surety & Casualty Company,  
Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 29<sup>th</sup> day of April, 2022, a true copy of the foregoing was served on the following parties via ECF:

Sean D. Slanger  
Erin M. Lyndes  
Jackson, Murdo & Grant, P.C.  
203 North Ewing Street  
Helena, MT 59601

/s/ Daniel J. Auerbach  
BROWNING, KALECZYC, BERRY & HOVEN, P.C.